

Notice of Allowability

Application No.

09/125,751

Examiner

Susan Ungar

Applicant(s)

FODSTAD ET AL.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to Telephone Interview of October 29, 2004 and Amendment submitted 11/5/2004.
2. ☐ The allowed claim(s) is/are 1, 3, 6-8, 13-16, 18-21, 25-26, 29-32, now renumbered 1-19.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date June 21, 2000.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

1. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

2. In response to a phone call by Susan Wang of Merchant and Gould, Examiner had a discussion with Mr. Gresens and Ms. Wang about patentable material in the instant application on October 29, 2004. Working from a draft copy of the claims submitted on October 28, 2004, Mr. Gresens agreed to the following amendments to the claims, by Examiner's amendment. The formal amendment of the claims was submitted on November 5, 2004 and entered. Claims 1, 3, 5-8, 13-16, 18-23, 25-30 are currently under prosecution. The

3. The application has been amended as follows:

In the specification:

In the claims:

Claim 1 was amended as follows: on line 6 of the claim, after "between an antibody or antigen binding" the phrase "antibody fragments" was deleted and the phrase "--fragment thereof --" was inserted.

Claim 1 was amended as follows: on line 9 of the claim after “antibodies or antigen binding”, the phrase “antibody fragments” was deleted and the phrase -- fragment thereof--was substituted.

Claim 8 was amended as follows: after “tumor or intrapleurally” the term “of” was deleted and the term --or-- was substituted.

Claim 14 was amended as follows: on the fourth line from the bottom after “antigen-binding” the term “antibody” was deleted.

Claim 14 was amended as follows: on the second line from the bottom after “antigen-binding” the term “antibody” was deleted.

Claim 20 was amended as follows: after “causes toxicity to” the phrase “cancer or carcinoma cells” was deleted and the phrase --breast cancer cells-- was substituted.

Claim 21 was amended as follows: on the fourth line from the bottom after “antigen-binding” the term “antibody” was deleted.

Claim 21 was amended as follows: on the second line from the bottom after “antigen-binding” the term “antibody” was deleted.

Claim 23 was cancelled.

Claim 29 was amended as follows: on line 6 of the claim after “antibody or antigen binding” the term “antibody was deleted.

Claim 29 was amended as follows: on line 8 of the claim, after “antigen binding” the term “antibody was deleted.

Claim 29 was amended as follows: on line 8 of the claim after “fragments” the term “and” and deleted and the phrase --further comprising-- was substituted.

Claim 29 was amended as follows: on line 9 of the claim, after “antigen binding” the term “antibody was deleted.

Claim 30 was amended as follows: on the fourth line from the bottom of the claim, after “antigen binding” the term “antibody” was deleted.

Claim 30 was amended as follows: on the second line from the bottom of the claim, after “antigen binding” the term “antibody” was deleted.

Claim 32 was amended as follows: on the third line from the bottom of the claim, after “antigen binding” the term “antibody” was deleted.

Claim 32 was amended as follows: on the last line of the claim, after “antigen binding” the term “antibody” was deleted.

4. Authorization for this Examiner's Amendment was given in a telephone interview with John Gresens on October 29, 2004.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should

preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is (703) 305-2181. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is (571) 272-0837. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew, can be reached at 571-272-0787. The fax phone number for this Art Unit is (703) 872-9306.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 872-9306.

Effective, February 7, 1998, the Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this

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application, all further correspondence regarding this application should be
directed to Group Art Unit 1642.


Susan Ungar
Primary Patent Examiner
November 4, 2004